

# Youth Justice Insights: Separating Misconceptions from Facts

## Background

The youth justice system is for young people who have, or are alleged to have committed an offence. It gives them a genuine opportunity to change their lives for the better without getting a criminal record, by focusing on diversionary measures. Oranga Tamariki aims to work in partnership with others, such as the Police and courts, to address the underlying factors that contribute to offending as early as possible, to reduce the potential for lifelong offending and poor life outcomes.

The purpose of this report is to explore key questions about the youth justice system. These questions are commonly posed and have been generated from discussions by both those within the youth justice community and those outside it. For example, questions often focus on the link between care and protection and youth justice, or comparisons between the youth justice system and the adult justice system.

This report brings together information from a number of different sources. Throughout it, the questions are answered using publicly available information or data that can be requested by anyone about the system and the children and young people involved.

## Key questions

The following questions are explored in this document:

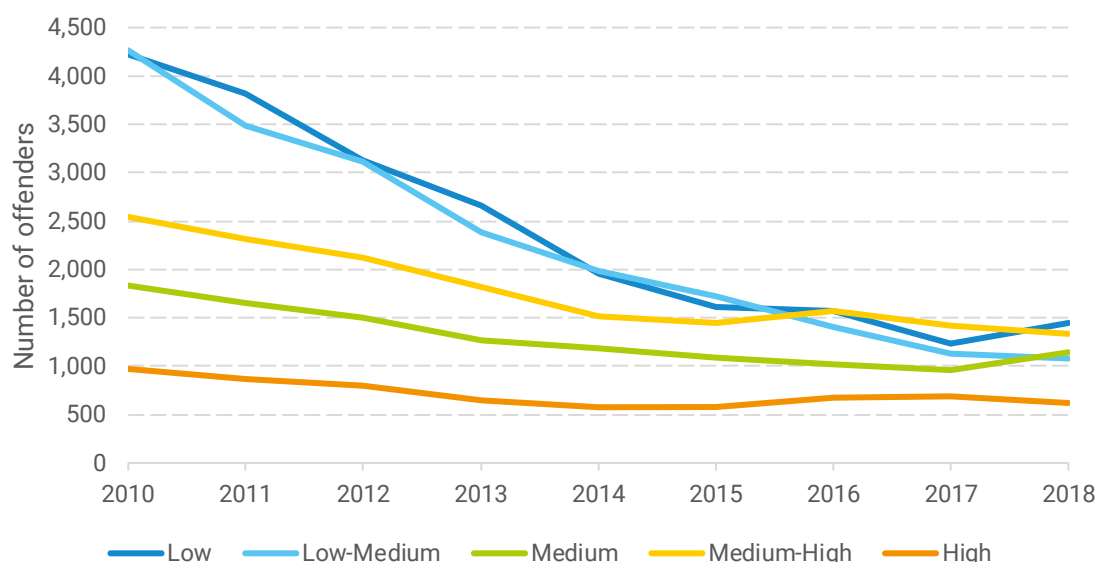
- Is youth offending becoming more serious?
- Is the decrease in youth offending over the past decade due to Police behaviour or a reduction in youth offending?
- Are reoffending rates higher for young people compared with adults?
- Do a large proportion of young people involved in youth justice go on to reoffend?
- Do care-experienced young people move into the youth justice system?

## Is youth offending becoming more serious, and is the decrease in youth offending due to Police behaviour or a reduction in youth offending?

Overall, the Youth Justice Indicators Summary report shows a substantial drop in youth offending. The report shows that between 2010 and 2018, there was a large reduction in children aged 10 to 13 and young people aged 14 to 16 offending, with offending rates dropping by 55% and 58% respectively.

*Youth offending has decreased across all levels of offending – from low seriousness to high seriousness.* Therefore, youth crime isn't necessarily more serious, as there are fewer offences of high seriousness now than there was a decade ago. However, as figure one shows, the decrease in youth offending was greatest at the less serious end of offending, so high seriousness offences (such as violent offences or burglary) now account for a **greater proportion** of all offences (11% in 2018 compared to 7% in 2010)<sup>1</sup>.

Figure 1: Number of 14-16-year olds proceeded against by Police by seriousness of offences, 2010-2018



It is certainly possible that changes in Police practice in New Zealand – such as the 2009 to 2014 *Policing Excellence* initiative<sup>2</sup> – has contributed to the reduction in youth offending. This initiative focused on shifting the emphasis in Police away from being predominantly reactive and offender focused, to being proactive, prevention and victim focused<sup>3</sup>.

However, if the decrease in youth offending over the last decade was solely due to Police behaviour, it is unlikely that there would have been a reduction in more serious offending, as Police are more likely to proceed against an offender who commits a serious offence than a low-level offence.

Between 2010 and 2018, the number of 14-16-year olds who were proceeded against for a medium-high level offence decreased by 48% (1,208 young people), and by 36% (349 young people) for a high-level offence.

*The decrease in medium-high- and high-level offences is evident for both Māori and non-Māori, however the decrease for Māori was much less.* Between 2010-2018, the number of Māori 14-16-year

<sup>1</sup> <https://www.justice.govt.nz/justice-sector-policy/research-data/justice-statistics/youth-justice-indicators/>

<sup>2</sup> <https://www.police.govt.nz/sites/default/files/publications/policing-excellence-closure.pdf>.

<sup>3</sup> Targets included an increase in police prevention activities, a decrease in recorded crime, and a decrease in prosecutions for non-traffic offending. The last target was primarily about expanding alternative resolution options to keep low-level, often first-time, offenders out of the justice system, and courts, while still ensuring crime is addressed and victims have redress.

olds who were proceeded against for medium-high level offences decreased by 44% (599 young people), and by 33% (170 young people) for a high-level offence. European/other 14-16-year olds proceeded against by Police decreased by 59% each for medium-high and high-level offences (528 and 174 young people respectively).

There are other factors that may also be driving a decrease in youth proceedings. For example, increased levels of public security through CCTV and more secure vehicles provide fewer opportunities for offending and make offending more difficult. A move away from traditional crime and a tendency to be involved in antisocial behaviour online may also be part of the decrease<sup>4</sup>.

Additionally, the decrease in youth offending is not unique to New Zealand. Youth offending has also decreased in Australia<sup>5</sup>, England and Wales<sup>6</sup>, Canada<sup>7</sup> and the United States<sup>8</sup>.

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<sup>4</sup> Australian Institute of Criminology. Where have all the young offenders gone? Examining changes in offending between two NSW birth cohorts, 2018

<sup>5</sup> Australian Bureau of Statistics, Youth offender rate falls for seventh consecutive year.

<sup>6</sup> Youth Justice Statistics 2017/18: England and Wales, Youth Justice Board/Ministry of Justice

<sup>7</sup> Police-reported crime statistics in Canada, 2018. Canadian Centre for Justice Statistics.

<sup>8</sup> OJJDP Statistical Briefing Book. Online. Available: [http://www.ojjdp.gov/ojstatbb/crime/JAR\\_Display.asp?ID=qa05200&selOffenses=1](http://www.ojjdp.gov/ojstatbb/crime/JAR_Display.asp?ID=qa05200&selOffenses=1). October 31, 2019.

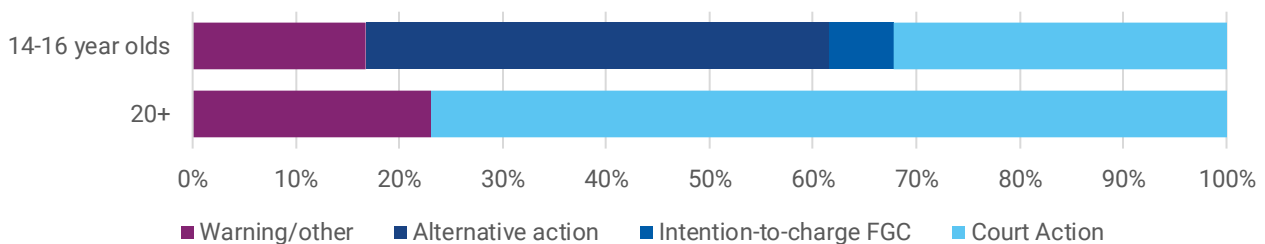
## Are reoffending rates worse for young people compared with adults?

Comparing reoffending rates of young people with the reoffending rates of adults is often used as a measure of how well the youth justice system is performing. If the reoffending rates of young people who have been through the youth justice system are higher than that of adults, it is argued that the youth justice system is failing to make a positive change for these young people. However, comparing reoffending rates of those in the youth system with those in the adult system is a flawed comparison.

*Comparing reoffending rates for people in the youth justice system with people in the adult system is not comparing “apples with apples”.* There are key differences in the cohorts that go through the youth justice system and adult system, and important differences in the way people are dealt with in each system.

A key youth justice principle in the Oranga Tamariki Act 1989 is that court action should not be instituted against young people if there is an alternative means of dealing with the matter. This is reflected in the breakdown of proceeding types for 14-16-year olds versus adults<sup>9</sup>. Only around one-third of initial proceedings against 14-16-year olds are in court, whereas for adults aged at least 20 years it is closer to three-quarters.

Figure 2: Breakdown of Police proceedings by initial method of proceeding<sup>10</sup> and age group, 2017/18<sup>11</sup>



Due to the high use of diversionary approaches away from court in the youth justice system, reoffending for young people is often measured using Police proceedings data<sup>12</sup>. Rates of reoffending using Police proceedings data will always be higher than rates where only proven<sup>13</sup> reoffending in court is measured which is common practice in the adult system. Therefore, valid comparisons cannot be made between reoffending rates when different measures of offending are used.

Caution must also be taken in comparing rates of proven reoffending in court between young people and adults. The proportion of young people appearing in Youth Court for serious offences is higher than that of adults appearing in the District Court.

This isn't because young people commit more serious crime – it is because *the Youth Court is reserved for serious offending, whereas the District Court prosecutes all levels of offending*. Low-level

<sup>9</sup> 10-13-year olds who offend are also involved in youth justice. However, the number of 10-13-year olds is very small. The vast majority of those involved in youth justice are historically aged 14-16. 17-year olds have been part of the youth justice system since 1 July 2019.

<sup>10</sup> Method of proceeding is based on the first type of legal action initiated by Police against a person as a result of an investigation of an offence.

<sup>11</sup> Police proceedings (offender demographics): <https://www.police.govt.nz/about-us/publications-statistics/data-and-statistics/policedatanz/proceedings-offender-demographics>

<sup>12</sup> 'Proceeding' refers to a legal action initiated against an alleged offender for an offence(s). Police proceedings represent a count for each separate occasion on which police initiate a legal action against an offender.

<sup>13</sup> Often youth offences are not "proven" as such but are "not denied" which allows the Family Group Conference to proceed and the offence to be resolved without a conviction being recorded. It's a subtle but important feature of the youth jurisdiction which makes it very different from the District/Adult Courts where the first job of the court is to gain admission of guilt or prove guilt by trial.

offending by young people is kept out of court wherever possible. This is clearly reflected in the average seriousness scores for charges in the Youth Court versus the District Court (Table 1).

Table 1: Number of people appearing in court by average and median seriousness score<sup>14</sup> for their most serious charge, 2018/19

Court	Number of people	Average seriousness score	Median seriousness score
Youth Court	1,300	474*	243
District Court	72,000	113**	19

\*Arson has a score of 474.69, \*\* Benefit fraud has a score of 113.44. Source: Ministry of Justice

In terms of the youth proven reoffending rate, 45% of 14 -16-year olds who appeared in the Youth Court in 2016/17 reoffended with a new proven offence in court within 12 months (49% for Māori and 38% for non-Māori). Prior to this, the overall youth proven reoffending rate declined from 48% to 43% between 2009/10 and 2011/12 but increased to 49% in 2015/16 (Youth Justice Indicators Summary Report, August 2019<sup>15</sup>).

There is no comparable published measure for adults. On occasion, the youth proven reoffending rates above have been compared to the Corrections recidivism index even though each court deals with a different mix of cases. The 2017/18 index shows 26% of offenders beginning a community sentence were reconvicted and sentenced to either a prison or community sentence within 12 months. This is more pronounced for Māori, at 32%.

The reconviction rate is higher for those who were released from prison, with 45% of those offenders being reconvicted and sentenced to prison or a community sentence within 12 months<sup>16</sup>. Again, the rate is greater for Māori at 50%. Of particular note is that the Corrections reconviction rates do not count reconvictions that resulted in non-Corrections sentences (e.g., fines, driving disqualifications etc), so do not reflect all proven reoffending. Therefore, it is not valid to compare them to youth proven reoffending rates.

<sup>14</sup> Seriousness scores are a way of quantifying the relative seriousness of offences based on the sentences imposed for each offence. <https://www.justice.govt.nz/assets/Documents/Publications/2016-FAQs-Seriousness-Scores2.pdf>

<sup>15</sup> <https://www.justice.govt.nz/justice-sector-policy/research-data/justice-statistics/youth-justice-indicators/>

<sup>16</sup> [https://www.corrections.govt.nz/resources/strategic\\_reports/annual-reports/annual\\_report\\_201819](https://www.corrections.govt.nz/resources/strategic_reports/annual-reports/annual_report_201819)

## Do a large proportion of young people involved in Youth Justice go on to reoffend?

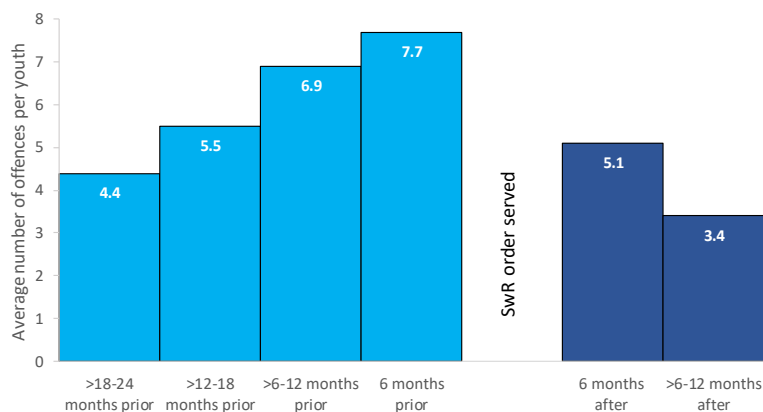
Just under half of 14-16-year olds who appeared in the Youth Court reoffended within 12 months. This increased to 65% after 24 months.<sup>17</sup> The reoffending rate is higher for young people who receive high end Youth Court orders of Supervision, Supervision with Activity and Supervision with Residence (81%, 82% and 88% respectively were proceeded against by Police within 12 months).

While stopping reoffending is the ultimate end goal, this is difficult to achieve for many young people who offend because of their high and complex needs. Youth justice interventions that *reduce the frequency and seriousness of offending are a positive step in the right direction* and may place the young person on a pathway to desistance.

Although most young people who receive a high-end Youth Court order for serious offending (Supervision, Supervision with Activity, Supervision with Residence) go on to reoffend within 12 months, a high proportion reduce the frequency and seriousness of their offending.

For example, although 88% of Supervision with Residence<sup>18</sup> recipients reoffended within 12 months of release, 69% reduced the frequency of their offending and 74% reduced the seriousness of their offending in the following 12 months. The young people who receive Supervision with Residence are already the most serious youth offenders. Decreasing the frequency and seriousness of their offending is a positive result.

Figure 3: Average frequency of known offences in each time period per young person released from a Supervision with Residence order in 2014/15 to 2016/17

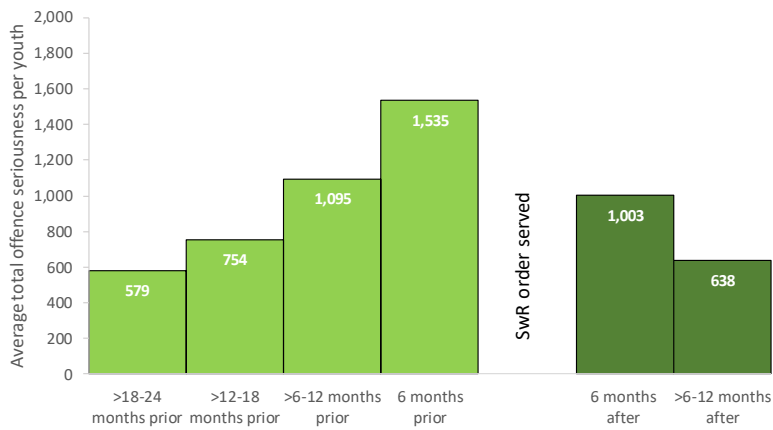


<sup>17</sup> <https://www.justice.govt.nz/justice-sector-policy/research-data/justice-statistics/youth-justice-indicators/>.

Reoffending here is defined as having a further offence proven in any level of court.

<sup>18</sup> Supervision with Residence is the most serious Youth Court order that can be imposed on a young person.

Figure 4: Average total seriousness of known offences in each time period per young person released from a Supervision with Residence order in 2014/15 to 2016/17 <sup>19</sup>



The frequency and seriousness of reoffending also reduced for over two-thirds of the young people commencing Supervision and Supervision with Activity<sup>20</sup>.

72% of the Supervision with Residence sample were Māori. A lower proportion of Māori (63%) reduced the seriousness of their most serious offence compared with European/other (72%) young people.

<sup>19</sup> Seriousness scores are explained more on page 6.

<sup>20</sup> <https://orangatamariki.govt.nz/research/latest-research/reoffending-following-high-end-youth-court-orders/>

## Do care-experienced young people move into the Youth Justice system?

To understand the information presented in this section, it is important to understand what being 'in care' or being 'care-experienced' means and what we mean when we talk about statutory involvement.

### *Care and protection*

In certain circumstances when a child or young person needs care and protection, for example when they are suffering, or are likely to suffer, serious harm, the court can place them in the custody of the chief executive of Oranga Tamariki. This is often referred to as being in "state care" or just "care". A child or young person in care will often either remain at home but in the custody of Oranga Tamariki or be placed with a family/whānau member or some other caregiver – referred to here as a '**care and protection placement**'. Children and young people who have been in care are referred to in this report as "care-experienced".

**Care and protection statutory involvement** is wider and includes both those who have had a care and protection Family Group Conference or a care and protection placement.

### *Youth Justice*

In the youth justice system, a young person can be detained in the custody of the chief executive of Oranga Tamariki on remand or sentence and will reside in a youth justice residence or community group remand home. This is referred to here as a '**youth justice placement**'.

**Youth justice statutory involvement** is wider and includes both those who have had a youth justice Family Group Conference or a youth justice placement.



Being involved in care and protection does not mean a child or young person will become involved with the youth justice system.

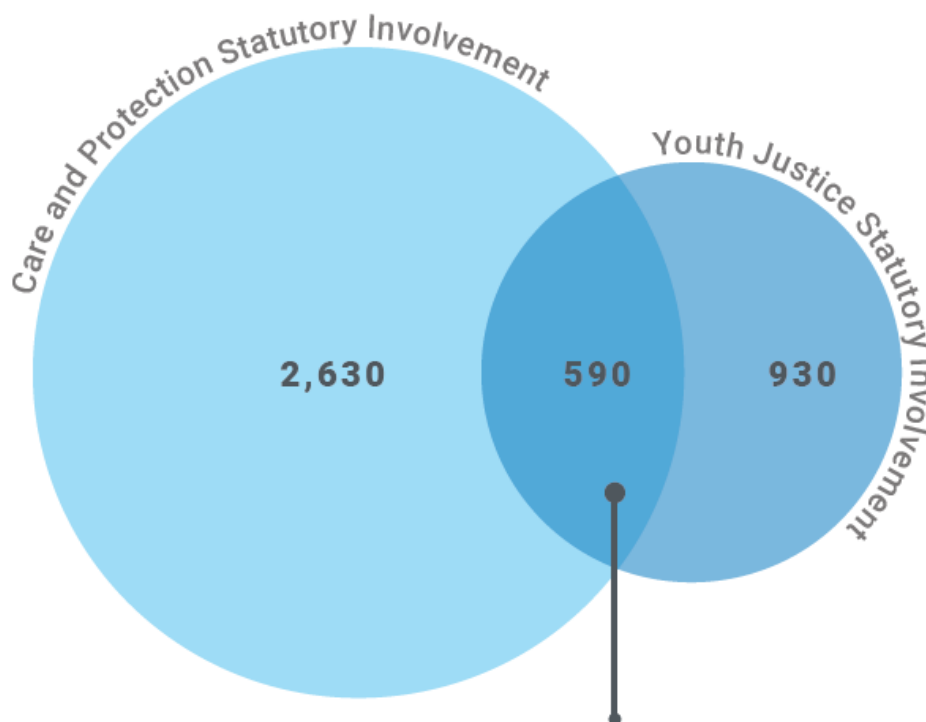
Despite the commonly held belief that being involved in care and protection leads to youth justice involvement, the vast majority never went on to have youth justice involvement.

Of the 3,220 18-year olds who had care and protection statutory involvement, 2,630 never went on to have youth justice statutory involvement.

Of the 1,520 18-year olds who had statutory involvement with youth justice, 930 had never had care and protection statutory involvement.

### Overlap between Care and Protection Statutory Involvement and Youth Justice Statutory Involvement

For all 18 year olds as at 30 June 2018



**18%**

of those that had care and protection statutory involvement also had youth justice statutory involvement.

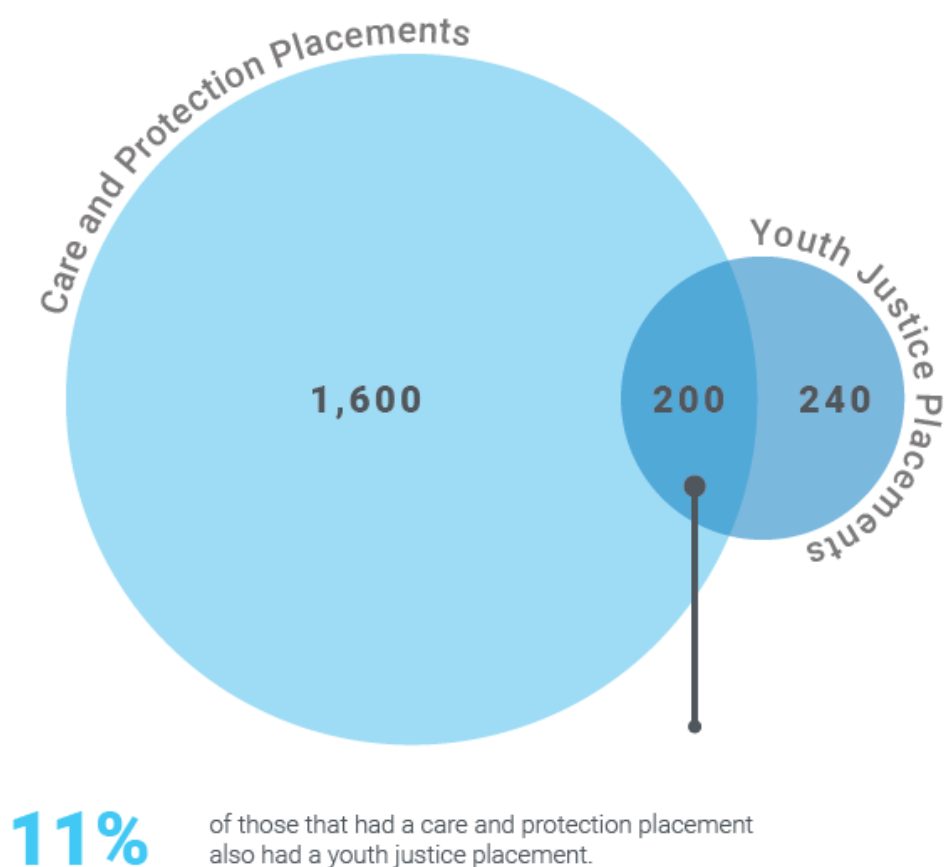
Narrowing the focus to look at those who had been in a care and protection or youth justice placement shows a similar picture.

Of the 1,800 18-year olds who had been in a care and protection placement, 1,600 never went on to have a youth justice placement.

Of the 440 18-year olds who had a youth justice placement, 240 had never been in a care and protection placement.

### Overlap between Care and Protection Placements and Youth Justice Placements

For all 18 year olds as at 30 June 2018



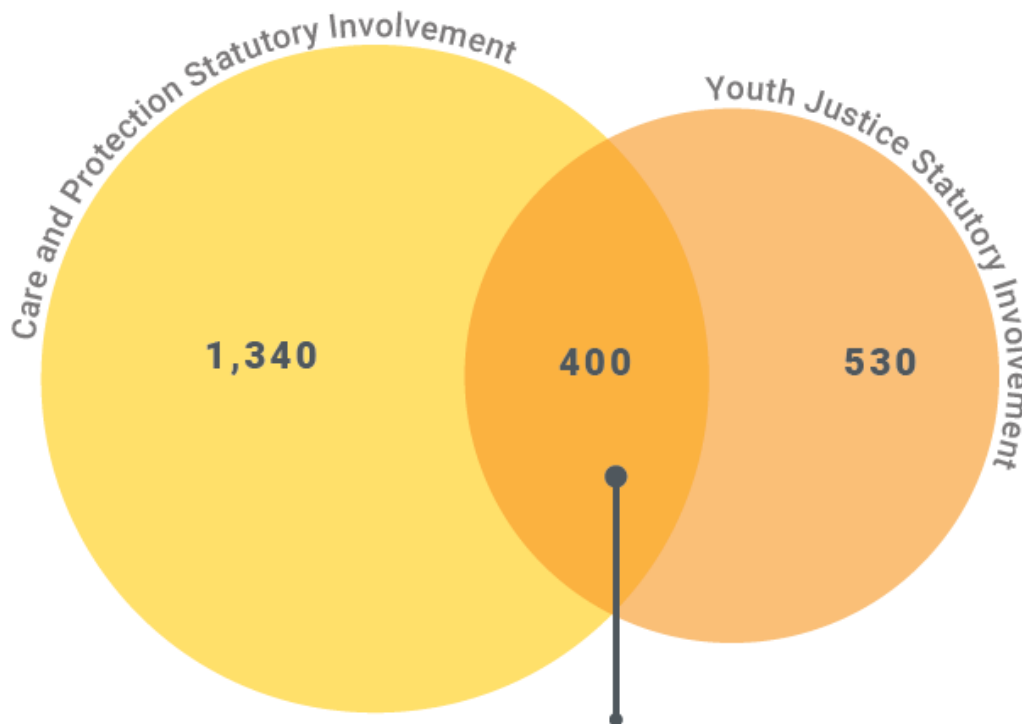
The overlap between care and protection and youth justice is similar for Māori

Of the 1,740 Māori 18-year olds who had care and protection statutory involvement, 1,340 never went on to have youth justice statutory involvement.

Of the 930 Māori 18-year olds who had statutory involvement with youth justice, 530 had never had care and protection statutory involvement.

### Overlap between Care and Protection Statutory Involvement and Youth Justice Statutory Involvement for Māori

For all Māori\* 18 year olds as at 30 June 2018



**23%**

of those Māori that had care and protection statutory involvement also had youth justice statutory involvement.

'Statutory Involvement' includes all those who have had a Family Group Conference or been in a placement.

\* 'Māori' includes those identified as 'Māori' or both 'Māori and Pacific'

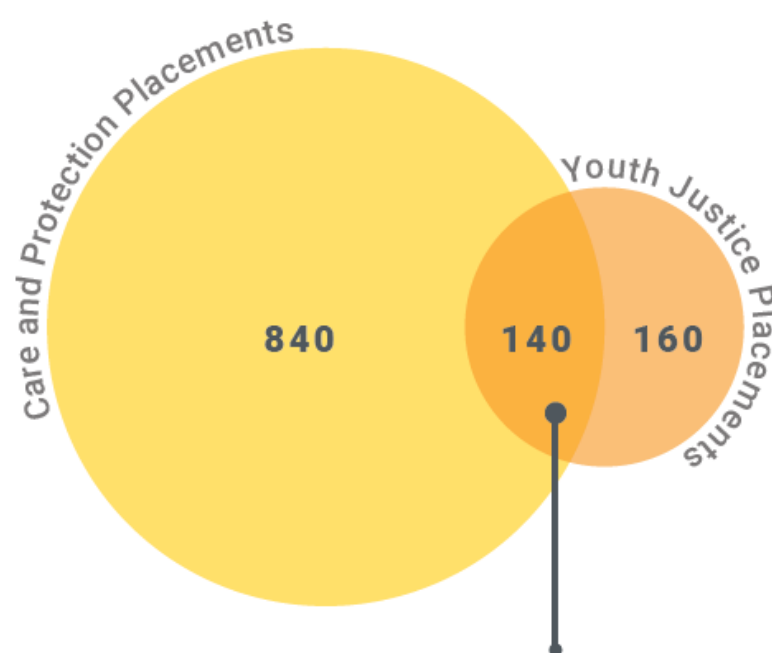
Narrowing the focus to look at Māori who had been in a care and protection or youth justice placement shows a similar picture again.

Of the 980 Māori 18-year olds who had been in a care and protection placement, 840 never went on to have a youth justice placement.

Of the 300 Māori 18-year olds who had a youth justice placement, 160 had never been in a care and protection placement.

### Overlap between Care and Protection Placements and Youth Justice Placements for Māori

For all Māori\* 18 year olds as at 30 June 2018



**14%** of those Māori that had a care and protection placement also had a youth justice Placement.

\* 'Māori' includes those identified as 'Māori' or both 'Māori and Pacific'

## Conclusion

This report explored questions commonly posed about the youth justice system using publicly available data or data that can be requested by anyone about the system and the young people involved.

The research and analysis available shows:

- youth crime has reduced across all levels of seriousness – more so for low level offending, leaving a higher proportion of more serious crime in the youth system;
- Youth crime has reduced in other countries indicating the reduction is likely not solely due to Police behaviour;
- comparison of reoffending statistics between the youth and adult systems is not straight forward as the systems are fundamentally different;
- stopping young people reoffending entirely is unlikely due to the serious nature of the cases/offending history dealt with. However, Oranga Tamariki interventions coincide with a reduction in the frequency and seriousness of reoffending;
- the vast majority of those with care and protection statutory involvement are never involved in the Youth Justice system.